



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:	)	Before the Examiner
Foley et al.	)	Mary C. Hoffman
	)	
Application Serial No. 10/756,970	)	Group Art Unit 3733
	)	
Filed January 13, 2004	)	Ref. No. MSDI-223/
	)	PC444.06
	)	
SURGICAL INSTRUMENTATION AND	)	March 3, 2008
METHOD FOR TREATMENT OF THE SPINE	)	

**RESPONSE TO FINAL OFFICE ACTION AND ADVISORY ACTION (WITH RCE)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated November 1, 2007 and the Advisory Action dated February 1, 2008, please enter and consider the following amendments and remarks. This response is being filed concurrently with a Request for Continued Examination, including the requisite fee in the amount of \$810. A fee in the amount of \$120 is also remitted herewith for a one (1) month extension of time, thereby extending the time period to respond to the final Office Action and the Advisory Action to March 1, 2008, which fell on a Saturday, thereby extending the response period to March 3, 2008 (the first business day after March 1, 2008). Please charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

March 3, 2008

Date of Deposit

Brad A. Schepers

Name of Registered Representative

Signature

March 3, 2008

Date of Signature

### **INTRODUCTORY COMMENTS**

Claims 54-79 were pending in the subject application for the final Office Action dated November 1, 2007, and for the Advisory Action dated February 1, 2008. Claims 54-70 and 74-79 currently stand rejected, and claims 71-73 currently stand withdrawn from consideration. In view of the following amendments and remarks, reconsideration and allowance of the subject application are hereby requested.

The Applicant notes that the Advisory Action dated February 1, 2008 includes conflicting indications regarding entry of the Applicant's previous response to the final Office Action. Specifically, Item 3 indicates that the previous response "will not be entered", but Item 7 indicates that the previous response "will be entered". In a telephone conversation with Examiner Hoffman on February 25, 2008, the Examiner indicated that Item 3 should not have been checked, and that the Applicant's previous response was in fact entered. Accordingly, the current response is based on the status of the claims resulting from entry of Applicant's response to the final Office Action, as filed with the U.S. Patent and Trademark Office on January 2, 2008.